

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
WACO DIVISION

KOSS CORPORATION,

Plaintiff,

v.

APPLE INC.,

Defendant.

Case No. 6:20-cv-00665

**ORIGINAL COMPLAINT FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Koss Corporation (“Koss” or “Plaintiff”) files this complaint for patent infringement against Apple Inc. (“Apple” or “Defendant”) alleging, based on its own knowledge as to itself and its own actions, and based on information and belief as to all other matters, as follows:

NATURE OF THE ACTION

1. This is a civil action arising under the patent laws of the United States, 35 U.S.C. § 1 et seq., including specifically 35 U.S.C. § 271, based on Apple’s willful infringement of U.S. Patent Nos. 10,206,025 (“the ’025 Patent”), 10,298,451 (“the ’451 Patent”), 10,469,934 (“the ’934 Patent”), 10,491,982 (“the ’982 Patent”), and 10,506,325 (“the ’325 Patent”) (collectively “the Patents-in-Suit”).

THE PARTIES

2. Plaintiff Koss Corporation is a corporation existing under the laws of the State of Delaware having its principal place of business located at 4129 North Port Washington Avenue, Milwaukee, Wisconsin 53212.

3. Koss markets a complete line of high-fidelity headphones and audio accessories. Koss's products, branded under the Koss brand name or private label brands, are sold at various retail chains throughout the United States and the world, including Walmart stores and other large brick-and-mortar establishments, as well as direct to customers in at least the following cities in this District: Alpine, Austin, Del Rio, El Paso, Midland, Odessa, San Antonio, and Waco.

4. Koss also serves as an Original Equipment Manufacturer ("OEM") for a customer in this Judicial District. In this role, Koss manufactures OEM headphones sold under its customer's brand.

5. On information and belief, Apple is a California corporation having a principal place of business located at One Apple Park Way Cupertino, California 95014 and regular and established places of business at 12535 Riata Vista Circle, Austin, Texas and 5501 West Parmer Lane, Austin, Texas.

6. On information and belief, Apple is in the process of building a 15,000-employee, 3-million square foot campus in Austin, Texas.

7. Apple employs thousands of people, including at least hundreds of engineers, who currently work, and will in the future work, at either the Riata Vista Circle location, the West Parmer Lane location, or the new 15,000-employee campus location, in Austin, Texas.

8. On information and belief, Apple presently employs personnel with responsibility for Apple's wearable products, including the Apple AirPods and/or the Apple Beats by Dre product line, in Austin, Texas.

9. On information and belief, Apple employs a senior manager in charge of Demand Management for wearables in the United States, including the Apple AirPods and Apple Beats by Dre products, in Austin, Texas.

10. On information and belief, Apple presently employs personnel with responsibility for online content management related to Apple's wearable products as well as Apple's HomePod product in Austin, Texas.

11. On information and belief, Apple employs an online content manager with responsibility for iPhone, iPad, Apple Watch, HomePod, AirPods, and Apple Beats by Dre in Austin, Texas.

12. On information and belief, Apple employs a software performance engineer in Austin, Texas responsible for activating every iPhone, iPad, Apple Watch, and HomePod worldwide.

13. On information and belief, Apple employs a Specialty Programs Manager in Austin, Texas with responsibility for the Apple Watch Series 3 and the HomePod, among other programs.

14. On information and belief, Apple operates brick-and-mortar retail establishments ("Apple Stores") at Barton Creek Square, Austin, Texas and at Apple Domain Northside, Austin, Texas.

15. Each of these Apple Store locations offers for sale and sells Apple wearable products (including Apple AirPods and Apple Beats by Dre products), Apple Watch products, Apple iPhone products, and Apple HomePod products.

16. On information and belief, the Best Buy store at 4627 S. Jack Kultgen Expy., Waco, TX 76706 also sells Apple wearable products (including Apple AirPods and Apple Beats by Dre products), Apple Watch products, Apple iPhone products, and Apple HomePod products.

17. Apple is registered to do business in the state of Texas and lists CT Corp. System, located at 1999 Bryan St., Suite 900, Dallas, TX 75201 as its registered agent in the State of Texas.

JURISDICTION AND VENUE

18. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a) because the claims herein arise under the patent laws of the United States, 35 U.S.C. § 1 et seq., including 35 U.S.C. § 271.

19. This Court has personal jurisdiction over Apple in this action because Apple has committed acts of infringement within the State of Texas and within this District through, for example, the sale of Apple AirPods, Apple Beats by Dre products, Apple Watches, Apple iPhones, and Apple HomePods both online and from Apple Stores in this District. Apple regularly transacts business in the State of Texas and within this District. Apple engages in other persistent courses of conduct and derives substantial revenue from products and/or services provided in this District and in Texas, and has purposefully established substantial, systematic, and continuous contacts within this District and should reasonably expect to be sued in a court in this District. For example, Apple has offices in this District and has a registered agent for service in Texas.

20. Apple continues to grow its presence in this District, further cementing its ties to this District. Apple operates a website and various advertising campaigns that solicit sales of the

infringing products by consumers in this District and in Texas. Apple has entered into partnerships with numerous resellers and distributors to sell and offer for sale the Accused Products to consumers in this District, both online and in stores, and offers support service to customers in this District. Given these contacts, the Court's exercise of jurisdiction over Apple will not offend traditional notions of fair play and substantial justice.

21. Venue in the Western District of Texas is proper pursuant to 28 U.S.C. §§ 1391(b), (c) and 1400(b). Apple has regular and established places of business in this District, including at 12535 Riata Vista Circle and 5501 West Parmer Lane, Austin, Texas. Apple has committed acts within this judicial district, giving rise to this action. Apple continues to conduct business in this judicial district, including one or more acts of making, selling, using, importing and/or offering for sale infringing products or providing support service to Apple's customers in this District.

KOSS'S LEGACY OF AUDIO INNOVATION

22. Koss was founded in 1953 as a television rental company in Milwaukee, Wisconsin.

23. In 1958, John C. Koss invented the world's first SP/3 Stereophone as part of a "private listening system" that would enable the wearer to listen to a phonograph without disturbing others in the vicinity:

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